

# Missouri Small Business Regulatory Fairness Board



2007 Annual Report



OFFICE OF THE GOVERNOR  
STATE OF MISSOURI  
JEFFERSON CITY  
65101

MATT BLUNT  
GOVERNOR

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Dear Fellow Missourians:

Missouri businesses with fewer than 100 employees employ 1.3 million Missourians for our state. The Missouri Small Business Regulatory Fairness Board is charged with ensuring that legislation and actions by state executive agencies do not hinder their success.

In this annual report, you will find the board's recommendations for helping small businesses continue to grow and prosper in Missouri. Additionally, this report contains initiatives that the general assembly and state agencies can implement to reduce red tape and help create more job opportunities for working families.

Missouri's economy is strong and getting stronger. Since January 2005, nearly 90,000 new jobs have been created and we have set new export records in each of the last two years and are on track to do so again this year. Small businesses account for much of this success and it is vital for state government to be a partner in these efforts. The board has outlined a list of improvements that can be made in executive agencies to improve their service to small businesspeople and I know these suggestions will be thoroughly reviewed so that we can continue the significant progress we are making in job creation and economic development throughout Missouri.

Thank you for your interest in Missouri's small businesses. If you have any questions about this report, please do not hesitate to contact the Missouri Small Business Regulatory Fairness Board at (573) 526-3606 or through e-mail at [SBRFB@ded.mo.gov](mailto:SBRFB@ded.mo.gov)

Sincerely,

A handwritten signature in black ink that reads "Matt Blunt".

Matt Blunt

## Introduction

The Missouri Small Business Regulatory Fairness Board (SBRFB) 2007 Annual Report is based on information gathered during FY 2007. This report includes small business comments and the corresponding state agency's response. The Board submitted five recommendations to Missouri state agencies on improving regulatory fairness. All state agencies were required to submit their first bi-annual report to the Board by June 13, 2007. A Small Business Regulatory Alert subscription is available to all small businesses by subscription service.

This report also includes an evaluation of each state agency's performance based on their efforts to adhere to the five recommendations of the SBRFB. The SBRFB is pleased with the growth most of the state agencies have shown during FY 2007. Overall, the state agencies have gained knowledge and experience relative to making Missouri regulations friendly for small businesses. FY 2008 recommendations for each state agency are set forth in the report.

## Background

The SBRFB was established by the Missouri General Assembly under HB 576 and SB 456; and, patterned after the United States Small Business Administration, Office of Advocacy, and National Ombudsman, which serve as voices for small businesses in the federal government.

The legislation is comprised of several key elements:

- 1) State agencies shall consider innovative methods for compliance if the proposed rule affects small businesses, RSMo.536.300.2.
- 2) State agencies review existing rules affecting small businesses and justify continued existence, RSMo.536.325.
- 3) State agencies take into account the size of small businesses when imposing fines, RSMo.536.320.
- 4) Established the Small Business Regulatory Fairness Board, RSMo.536.305.
- 5) Small businesses entitled to judicial review, RSMo.536.100.
- 6) Small businesses are defined as a for-profit enterprise with 100 or fewer full-time or part-time employees, RSMo.536.010.

The most effective way to meet the legislative intent is to encourage a partnership between small businesses and state agencies regarding the promulgation, enforcement, and review of rules and regulations affecting small businesses. Small businesses are defined as a for-profit enterprise with 100 or fewer full-time or part-time employees.

The Missouri Department of Economic Development, in accordance with HB 576 and SB 456 provides staffing and support for the Board.

## Board Responsibilities

HB 576 and SB 456 state three main responsibilities for the board:

- 1) Provide state agencies with input regarding rules that adversely affect small businesses.
- 2) Conduct hearings and solicit input from small business owners and state agencies regarding any rules proposed by a state agency.
- 3) Provide an evaluation report to the governor and the General Assembly, including any recommendations and evaluations of state agencies regarding regulatory

fairness for Missouri's small businesses. The evaluation report shall be based on the information collected by the Board from July 1 through June 30 of every year. The report shall include comments from small businesses, state agency responses, and a summary of any public testimony on rules brought before the board for consideration.

## Membership

### Commission Members

Scott George, Mt. Vernon, Chairman  
 Randy Angst, Lebanon, Vice Chairman  
 Senator Kevin Engler, Farmington  
 Phillip Franz, West Plains  
 Micheal Ocello, St. Louis  
 Maria Guadalupe Taxman, St. Louis  
 Representative Luke Scavuzzo, Harrisonville  
 Nancy Zurbuchen, Kansas City

### DED Staff

Kevin Stover, Missouri Department of Economic Development  
 Krista Zurkamer, Missouri Department of Economic Development

### State Agency Liaisons

Paul Buckley, Office of Administration  
 Kurt Valentine, Department of Agriculture  
 Janet Bartok, Department of Conservation  
 Matt Sturm, Department of Corrections  
 Brian Grace, Department of Economic Development  
 Mark Van Zandt, Department of Elementary and Secondary Education  
 Bret Fischer, Department of Health and Senior Services  
 Chad Hampton, Department of Higher Education  
 Doug Ommen, Department of Insurance, Financial Institutions and Professional Registration  
 Shelly Kintzel, Department of Labor and Industrial Relations  
 Rikki Wright, Department of Mental Health  
 Todd Crawford, Department of Natural Resources  
 David Scott, Department of Public Safety  
 Casey Richey, Department of Revenue  
 Jennifer Stilabower, Department of Social Services  
 Brenda Treadwell Martin, Department of Transportation

## Meetings

During FY 2007, three public hearings were held to solicit testimony from small businesses and state agencies. These hearings were held on the following dates at the following locations:

- October 2, 2006, Springfield Area Chamber of Commerce, Springfield
- February 13, 2007, St. Louis Regional Chamber and Growth Association, St. Louis
- June 5, 2007, Greater Kansas City Chamber of Commerce, Kansas City



## Regulatory Alert Subscription

An initiative the SBRFB has put in place provides better flow of information concerning proposed regulations and small businesses. Called the "SBRFB Regulatory Alert," this notice arrives via email with details about new rules and regulations that could impact small businesses. The Regulatory Alerts will be sorted by state agency and each small business will have the opportunity to choose which state agencies they would like to receive alerts from. The system allows businesses, associations, and organizations to subscribe and unsubscribe at any time. There is no cost for the subscription and anyone can participate. To subscribe and unsubscribe small businesses will visit the SBRFB website at [www.sbrfb.ded.mo.gov](http://www.sbrfb.ded.mo.gov) and click on the Regulatory Alerts page.

## Bi-Annual State Agency Comprehensive Report

On June 13, 2007, each state agency was required to submit a list of rules affecting small business to the General Assembly and the SBRFB per RSMo.536.325. The agency shall also submit a report describing the specific public purpose or interest for adopting the respective rules and any other reasons to justify their continued existence. This list and report will be issued by each state agency every odd numbered year.

The Board realizes that this report came to many as a surprise, so the Board has decided to be more lenient during this first cycle of reports. The reports were evaluated on timeliness and whether or not the two elements required by statute were answered. During the next cycle of bi-annual reports, which will be June 13, 2009, the Board will be taking a closer look at the reports and analyzing each rule. The Board will be looking for agencies to justify the continuance of all the rules that may be creating a burden for small business.

## 2007 State Agency Recommendations

Listed below are the SBRFB recommendations for each state agency as we work together to achieve regulatory fairness for small businesses. These six recommendations have been evaluated by the Board in hopes of improving small business regulatory fairness in the state. This being the first year for evaluations, the Board has extended some leniency to the agencies. In August 2006, each agency received a letter from the SBRFB outlining these recommendations. The Board gave each agency a 60-day window after this notification. Therefore, the evaluations will be based on the data collected between the dates October 1, 2006 thru June 30, 2007 on each recommendation. All evaluations henceforth shall be based between the dates July 1 thru June 30. Please make note of the criteria considered during the evaluation for each recommendation.

1. State agencies should designate a Regulatory Fairness Program representative as the primary contact point between SBRFB and the agency. This individual will be responsible for investigating comments from small businesses and ensuring timely review and response. This individual should be independent of enforcement or compliance activities.

**-The SBRFB took into consideration whether a liaison was appointed and the timeliness of the appointment by the state agency.**

2. State agencies should provide formal training, both initially and on a periodic basis, for all enforcement and compliance staff on the regulatory fairness rights of small businesses, including the Missouri Small Business Regulatory Fairness program. The training should sensitize employees to the unique needs of small businesses.  
**-The SBRFB took into consideration whether the state agency liaison was present at the liaison meeting in January 2007 and the willingness of the liaison to initiate an annual SBRFB training regime.**
3. State agencies should include a small business impact statement, which meets the requirements of Missouri's regulatory fairness statute, for every proposed rule that impacts small businesses.  
**-The SBRFB took into consideration whether state agencies issued small business impact statements when necessary by statute and also if the required fields in the impact statement were addressed by the agency.**
4. State agencies should respond within 60 days to all comments generated through the Missouri Small Business Regulatory Fairness program.  
**-The SBRFB took into consideration whether the agency responded back to the small business and the SBRFB within the deadline of 60 days and if attempts were made by the agency to investigate the comment.**
5. Each agency should consider the size of businesses when imposing fines (RSMo 536.320) when appropriate.  
**-The SBRFB took into consideration the comments received from small businesses on state agencies imposing fines.**
6. An additional part of the evaluation this year is the bi-annual report submitted by the agencies in accordance to the RSMo 536.325.  
**-The SBRFB took into consideration the timeliness of the report and whether the agency answered the two elements required by statute: the specific public purpose or interest for adopting the respective rules and any other reasons to justify their continued existence. Due to the deadline of the bi-annual report and it's proximity to the end of the grading period, the SBRFB shall extend the date past June 30, 2007.**

\* The small business impact statement requirement, RSMo.536.300, is exempt for the Department of Conservation pursuant to article IV, section 45 of the Missouri Constitution. RSMo.536.325 requires state agencies with rules affecting small business to submit a bi-annual report listing these rules to the SBRFB. The SBRFB has determined that the exemption for RSMo 536.300 is applicable to RSMo 536.325, also.

\*\* The Office of Administration believes that all their regulations are imposed on state agencies and therefore do not impose any direct requirements on small business. For this reason, they feel they have no rules affecting small business for their bi-annual report. The SBRFB is of the opinion that the Office of Administration does have rules affecting small business. The Office of Administration and SBRFB have agreed to further discussion to clarify the requirements for the department's bi-annual report.

\*\*\*The Department of Higher Education experienced some shifts in personnel that effected the Departments involvement with the SBRFB. The Department has since assigned a liaison to the SBRFB and are committed to working with the SBRFB. The SBRFB is confident that the Department of Higher Education will improve as 2008 progresses.

## 2007 State Agency Evaluations

STATE AGENCY	LIAISON	TRAINING	SMALL BUSINESS IMPACT STATEMENT	60-DAY REPLY TO ALL COMMENTS	CONSIDER SIZE OF BUSINESS WHEN FINING	BI-ANNUAL AGENCY REPORT
Office of Administration	A	A	No Data	A	No Data	F**
Agriculture	B	A	D	No Data	No Data	C
Conservation	B	A	N/A*	No Data	No Data	N/A*
Corrections	A	A	No Data	No Data	No Data	C
Economic Development	A	A	B	No Data	No Data	C
Elementary & Secondary Education	B	A	No Data	No Data	No Data	D
Higher Education	F***	F***	No Data	No Data	No Data	D
Health & Senior Services	B	A	C	A	No Data	B
Insurance, Financial Institutions & Professional Registration	A	F	D	B	No Data	F
Labor & Industrial Relations	A	A	C	A	No Data	D
Mental Health	B	A	No Data	No Data	No Data	C
Natural Resources	A	A	B	A	No Data	C
Public Safety	A	A	No Data	No Data	No Data	C
Revenue	B	A	C	No Data	No Data	C
Social Services	B	A	B	A	No Data	B
Transportation	A	A	B	A	B	B

\* Not Applicable Per RSMo.536.300.1.

\*\* Office of Administration and SBRFB have agreed to further discussion to clarify the requirements for the department's bi-annual report.

\*\*\* Department of Higher Education and SBRFB are currently working together to bring the Department up-to-date.

Missouri Small Business Regulatory Fairness Board

## 2007 Small Business Comments to the SBRFB

The SBRFB received small business comments up to June 30, 2007 submitted by a public hearing and/or the SBRFB website.

- 1) Roberta Johnson, Country Side Greenhouse, Ash Grove, 7/25/2006
- 2) Russ Henry, IdentiPro, Kansas City, 9/29/2006
- 3) Nancy Good, The Title Place, Joplin, 10/2/2006
- 4) Scott George, Mid-America Dental and Hearing Center, Mount Vernon, 10/2/2006
- 5) Donna Routh, SW Motorcycle Training Center LLC, Springfield, 12/5/2006
- 6) Brenda Newberry, The Newberry Group, St. Charles, 1/25/2006
- 7) Sam Topchian, Quick and Safe LLC, Kansas City, 3/20/2007

### Roberta Johnson

Ms. Johnson erected a sign at the exit of I-44 to inform customers on how to get to her greenhouse. The Missouri Department of Transportation said the sign was not in legal limits from the highway and needed to be moved. MoDOT came out to the sign location and told Ms. Johnson where to post the sign in legal limits. She complied and moved the sign where MoDOT had suggested. MoDOT came out again to saw the sign down; it was suggested she call MoDOT in Jefferson City to remedy the situation saying it was still in illegal limits. Roberta commented that her case should have been resolved and if she liked she could request a hearing but it would be a waste of her time because no one has won a case against MoDOT.

**State Agency Response:** MoDOT did determine the lines of communication discussed in Ms. Johnson's comment had been tangled within the Department. In a matter of three months MoDOT and SBRFB were able to work together to remedy Roberta's problem. MoDOT erected the sign in the legal limit area.

### Russ Henry

Mr. Henry submitted a bid with the Office of Administration for their electronic fingerprinting services, but was underbid by an out-of-state agency. Mr. Henry made clear that his issue is not the decline of his company's bid to the state. Rather, his issue is that he cannot offer his clients the same quality services as the winning vendor. Mr. Henry explained that the state supplied a letter and email to contracted and non-contracted professional registration agencies saying the state-sponsored company would be the only company permitted to submit electronic fingerprints in the State of Missouri.

**State Agency Response:** While there is no cost to the state to fund the system, the overall cost of accessing the system is certainly an issue of consideration and it is a legitimate governmental purpose to keep the cost as low as possible. The contract the state entered into with Identix identifies Identix as the sole company permitted to access the MHSP CRID computer network to submit fingerprints electronically. This is not a political issue; this is a security issue and one which the State of Missouri takes very seriously. Having one vendor for a service is not uncommon in government. Identix employs many Missouri residents and pays taxes to the State of Missouri as well.

**SBRFB Response:** The Board sent a follow-up letter to the Office of Administration asking for more clarification on existing contracts with only one vendor. The Board also asked if additional security guards were discussed or could be put in place to allow for more than one vendor.



### Nancy Good

Ms. Good has concerns with the inconsistency of licensing information with the Department of Insurance, Financial Institutions and Professional Registration. Ms. Good has met with the Department of Insurance in the past and there is still this lack of consistency with licensing requirements. Ms. Good also has concerns with the fees and the appropriateness of licensing requirements.

**State Agency Response:** Department of Insurance, Financial Institutions and Professional Registration have appointed a liaison to the SBRFB. The Consumer Affairs Division, within the Department of Insurance, released Bulletin 06-05 clarifying the current law. This bulletin was accompanied with the response. The Department is seeking legislation that would specify those individuals who must be licensed and raise the professional educational standards of title agents.

### Scott George

Mr. George commented on his experiences with the Department of Labor and Industrial Relations when dealing with Missouri State Unemployment Compensation Hearings. Mr. George stated that DOLIR should return to allowing voluntary participation in the hearings. They should understand that small businesses do not have attorneys on staff, nor deep pockets to hire attorneys; they should take into account that small business employees are busy full time on their day-to-day jobs taking care of their customers; they should carefully brief small business employers to approach a hearing like they are going to court. Finally, they should apply the same rules regarding hearsay to both parties.

**State Agency Response:** The Department of Labor and Industrial Relations did a wonderful job of research and investigation into this comment. The Department's response was precise and had well-supportive documentation. The Department responded that the case appeared to be fully supported by the evidence in the hearing record and the existing Missouri case law. In addition, the employer chose not to appeal the case further to the Labor and Industrial Relations Commission or the Missouri Court of Appeals. The Division of Employment Security offered to conduct an informational seminar on protesting unemployment insurance claims and conducting appeals before the Division's Appeals Tribunal.

### Donna Routh

Ms. Routh is the owner of SW MO Motorcycle Training Center, LLC (SWMMTC). State Coordinator from the Missouri Motorcycle Safety Program pulled their Missouri certifications without due process according to MoDOT guidelines, resulting in the total closing of the business. The closure was based on incomplete testing, non-submitted accident/incident reports and non-received insurance premiums. The State Coordinator sent in an inspector under an assumed name to which they signed legal documents as such. They submitted an appeal to the Missouri Motorcycle Advisory Committee, but since they had to send their appeal through the State Coordinator they aren't sure it went any further. It also appears that the State Coordinator was working with Ozark Technical College in order to allow them to take over the program and cut out the middle man, SW MO Motorcycle Training Center, LLC.

**State Agency Response:** There was a posed student sent to investigate information the State Coordinator had concerning the training program. Although this had not been done before, we find nothing that precludes the State Coordinator from doing this, regardless of any statement he may have made about surprise visits. The State Coordinator did cover in March 2006 the need for submitting accident/incident reports. The checks for payment of the insurance premiums were received but SWMMTC stopped payment on all checks after they were notified of their removal from the program. The State Coordinator has confirmed that they are certified MSF instructors and are welcome to continue their training program in the private sector.

**SBRFB Response:** The SBRFB sent a follow-up letter to the Department of Transportation asking for more clarification to better understand the timeline of events.

**State Agency Response:** The Department of Transportation responded back to the Board with a detailed letter addressing all the questions posed by SBRFB. The Department's responsibility is in the oversight of the funds operating the Missouri Motorcycle Safety Program. The Department solicited responses from all avenues to provide a well thought out response. The Department's response was precise and had well-supportive documentation.

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#### Brenda Newberry

Ms. Newberry is the owner of the Newberry Group. Ms. Newberry's comment was in relation to the requirement for a proposal security deposit. This is not something experienced when bidding in other states or when bidding on contracts worth well over \$3 M with the federal government for Information Technology services. As indicated, neither the federal government nor other states require such a thing for IT services contracts because normally, as was the case for this RFP, the work is done as T&M or FFP with specific task orders containing the specific scope of work.

**State Agency Response:** The Division of Purchasing and Materials Management has implemented a policy that requires the state's purchasing director to approve proposal security deposit requirements. This policy will ensure that such deposits are required when the circumstances truly dictate such need. The state must consider all factors in its decision regarding economic impact, and ownership residence is just a piece of the overall evaluation. Regarding your suggestion to use a vendor's lack of ability to acquire Federal Security clearances as a tool to disqualify bidders from performing cyber security work, we believe there may be some merit to this idea and will review this with the state's chief information officer.

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#### Sam Topchian

Sam Topchian is the owner of Quick and Safe LLC, a healthcare transportation service. Quick and Safe is having problems with the new state contractor, LogistiCare LLC and their operation with State of Missouri Non-Emergency Medical Transportation (NEMT) services in terms of non-payment to their providers and sticking to the established payment scale. Mr. Topchian raises the question of what support for small business in the state of Missouri is available to allow them to work as independent transportation providers for the Medicaid recipients in our state. Mr. Topchian also questions the power of new and old brokers being used by the state.

**State Agency Response:** The Centers for Medicare and Medicaid Services, CMS, the federal agency governing Medicaid, allows states to deliver NEMT services by using a single statewide broker service or through contracts with individual transportation providers. The Division of Medical Services, an agency within the Department of Social Services, utilizes the brokerage model by contracting services through a single statewide broker rather than contracting directly with transportation providers. A brokerage system was identified as the most efficient method for the administration of the NEMT program in Missouri. The broker is responsible for establishing and maintaining a provider network sufficient to provide access to statewide Medicaid/MC+ covered services. The Department of Social Services contacted LogistiCare, the broker for Missouri, and it was reported that, according to their records, there are no outstanding payments owed to Quick and Safe.

## SBRFB 2008 Plans

The SBRFB will:

1. Take a closer look at all proposed regulations being filed to ensure that all rules affecting small business have a small business impact statement on file;
2. Examine each small business impact statement to guarantee the statute requirements are being addressed with detail and precision;
3. Work with each agency to involve small business in the development of any proposed rule that may impact them and document the involvement in the impact statement. The Board will put together a new training CD to aid the state agencies in their training which will cover the 2008 Recommendations;
4. Continue to identify and strengthen partnerships with associations, affiliations and organizations in Missouri so that more small business owners are aware of the existence and purpose of the SBRFB;
5. Continue to increase our Regulatory Alert subscription and utilize this resource as an outlet for the SBRFB;
6. Seek legislative support for an increase in staff and budget for the 2009 Fiscal Year so that we can better collaborate and communicate with both agencies and small business owners.

## 2008 SBRFB Recommendations

Looking ahead to 2008, the Board's agency recommendations include:

1. State agencies should provide formal training, on an annual basis, for all rule development, enforcement and compliance staff on the regulatory fairness rights of small businesses, including the Missouri Small Business Regulatory Fairness program. The training should sensitize employees to the unique needs of small businesses.
2. State agencies should include a small business impact statement, which meets the requirements of Missouri's regulatory fairness statute, for every proposed rule that impacts small businesses.

3. State agencies should assign division-level liaisons to ensure proper attention to and distribution of small business regulatory requirements. The SBRFB will consider division separation for the 2008 State Agency Evaluation Grades based on these liaisons.
4. Please note that all FY 2007 recommendations are still in force and will be subject to evaluations of the FY 2008 report. The FY 2007 recommendations include the following...
  - a. State Agencies should designate a Regulatory Fairness Program representative as the primary contact point between SBRFB and the agency. This individual will be responsible for investigating comments from small businesses and ensuring timely review and response. This individual should be independent of enforcement or compliance activities.
  - b. State agencies should provide formal training, both initially and on a periodic basis, for all enforcement and compliance staff on the regulatory fairness rights of small businesses, including the Missouri Small Business Regulatory Fairness program. The training should sensitize employees to the unique needs of small businesses.
  - c. State agencies should include a small business impact statement, which meets the requirements of Missouri's regulatory fairness statute, for every proposed rule that impacts small businesses.
  - d. State agencies should respond within 60 days to all comments generated through the Missouri Small Business Regulatory Fairness program.
  - e. Each agency should consider the size of businesses when imposing fines (RSMo 536.320) when appropriate.

## Summary

The SBRFB is pleased with the progress and efforts of most of the state agencies during FY 2007. Overall, the state agencies have gained knowledge and experience relative to the SBRFB's mission to make Missouri regulations friendly for small businesses. The successful progression of the SBRFB has raised the Board's expectations for FY 2008. The SBRFB encourages all small businesses and other interested parties to register for the Regulatory Alerts. The Board also encourages small businesses to submit comments to SBRFB when experiencing regulatory concerns with state agencies.

## Legacy: Small Business Comments

- 1) Tom Kauffman, Air Conditioning, 5/1/2006
- 2) Becky Heimerick, Schriefers Office Equipment, Jefferson City, 5/1/2006
- 3) Bill Crull, All-Spec Metal Systems, Holts Summit, 5/1/2006
- 4) Richard Johnson, Circle J Campground, Lebanon, 5/1/2006

### Tom Kauffman

Mr. Kauffman testified about a bid for the Missouri National Guard. Mr. Kauffman went through the process of getting prices and sending the information to his bonding company, stating that the owner of the contract was the Missouri National Guard Training Center. Mr. Kauffman was the lowest bidder of six bidders, but had no response from Design and Construction. Mr. Kauffman had several exchanges with Design and Construction but was unable to get a clear response. Mr. Kauffman's bid was thrown out due to the incorrect listing of National Guard as the owner instead of Design and Construction.

**State Agency Response:** The Office of Administration (OA) has appointed a liaison to the SBRFB. OA does take into account the size of businesses when writing instructions for bid proposals. We are aware of the limitations in their resources and do everything we believe is reasonable to make bidding our projects as simple and straightforward as possible. Furthermore, we have allowed bidders to correct minor clerical errors in bid documents. The difficulty is in determining what is minor. We have reviewed Mr. Kauffman's complaint comprehensively and believe that our decision is both fair and equitable. One of the specific purposes of the Contractors Liaison Committee is to discuss our proposed changes in procedures, processes and forms before launching the changes. This affords us input from the contracting community to try to assure that we have considered any changes from the contractors' perspective.

### Becky Heimerick

Ms. Heimerick testified about the office supply contracts with the Office of Administration in the State of Missouri. Ms. Heimerick expressed concern that several state departments have mandated contracts that dictate where to buy all their office supplies. Ms. Heimerick believes that the state agencies should have the opportunity to look at additional suppliers and be able to make their selection based on what is in the best interest of the state.

**State Agency Response:** Ms. Heimerick's comment focuses upon the internal management of how individual agencies conduct business. A preferred vendor is normally the first choice of an agency. However, there is no mandate that agencies use a specific company to provide office supplies at the exclusion of other companies. Therefore, this matter is an internal management issue and not the subject of a rule established by the Office of Administration.

### Bill Crull

Mr. Crull expressed interest in three separate items when dealing with the Office of Administration. First, Mr. Crull said the MBE/WBE program is being applied in such a way as to cause reverse discrimination. Secondly, Mr. Crull testified that he is involved in litigation now with the general contractor who hired his company as a subcontractor, and then failed to pay him. Lastly, Mr. Crull brought up concerns about resale tax issue.

**State Agency Response:** All-Spec was able to meet the MBE goal but fell short on the WBE goal. Thus, the Office of Administration determined that All-Spec did not make a good faith effort to obtain WBEs for the project. Since this time, All-Spec and our office have discussed this matter on several occasions and All-Spec was awarded another contract thru OA, using the same process at issue in this case. There is no rule that prohibits All-Spec from participating in contracts to the same manner and degree as any other contractor.



### Richard Johnson

Mr. Johnson shared his experiences with the Department of Natural Resources in relation to his violation of the clean water laws. Mr. Johnson was never notified of any changes in the law, but was warned his business would be in violation. He hired engineers and did significant improvements to his lagoon. He said that five years later, he is now in violation of the clean water laws with DNR once again. DNR has proposed a local sewer system for those using lagoons, and the businesses need to form the sewer system. Mr. Johnson said he would be willing to work with DNR, but it is not his job to find the money, or to form the sewer system.

**State Agency Response:** DNR has appointed a liaison to the SBRFB. DNR records do not reflect the required application, engineering submissions or department review and approval from Mr. Johnson. DNR does not make determination regarding the exact repair or construction that is needed at individual systems. It is up to the facility owner to consult and hire a professional engineer to evaluate the system. The engineer will develop and submit engineering plans and specifications to DNR for improvements. Decisions by DNR on the lagoon will be based upon the review by the engineering information.



## Missouri Small Business Regulatory Fairness Board

Missouri Department of Economic Development

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